

**MINUTES**  
**MICHIGAN STATE TRANSPORTATION COMMISSION MEETING**  
**October 27, 2005**  
**Lansing, Michigan**

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present:                Ted Wahby, Chairman  
                             Linda Miller Atkinson, Vice Chairwoman  
                             Vincent J. Brennan, Commissioner  
                             Maureen Miller Brosnan, Commissioner  
                             James R. Rosendall, Commissioner

Also Present:        Kirk Steudle, Chief Deputy Director  
                             Larry Tibbits, Chief Operations Officer  
                             Frank E. Kelley, Commission Advisor  
                             Marneta Griffin, Executive Assistant  
                             Jerry Jones, Commission Auditor  
                             Patrick Isom, MDOT Attorney General  
                             John Friend, Bureau Director, Highway Delivery  
                             John Polasek, Bureau Director, Highway Development  
                             Myron Frierson, Bureau Director, Finance and Administration  
                             Tim Hoeffner, Administrator, Intermodal Policy  
                             Susan Mortel, Bureau Director, Transportation Planning  
                             Rob Abent, Bureau Director, Multi-Modal Transportation

Excused:             Robert Bender, Commissioner  
                             Gloria J. Jeff, Director

A list of those people who attended the meeting is attached to the official minutes.

Chairman Wahby called the meeting to order at 9:00 a.m. in the Bureau of Aeronautics Auditorium in Lansing, Michigan.

**I.        COMMISSION BUSINESS**

Chairman entertained a motion to excuse Commissioner Bender from the October 27, 2005 State Transportation Commission meeting.

Moved by Commissioner Brennan, with support from Commissioner Rosendall, to excuse Commissioner Bender from the October 27, 2005 Commission meeting. The motion carried on a unanimous voice vote.

Commission Minutes

Chairman entertained a motion for approval of the minutes of the State Transportation Commission meeting of September 29, 2005.

Moved by Commissioner Brosnan, with support from Commissioner Atkinson, to approve the minutes of the Commission meeting of September 29, 2005. The motion carried on a unanimous voice vote.

## II. **SPECIAL PRESENTATION**

### Overview of Extras/Overruns and Bid Estimating Process – John Polasek and John Friend

Due to the nature of the specific questions asked during the September 29<sup>th</sup> Commission meeting, Mr. Polasek and Mr. Friend put together this information to give the Commissioners a brief overview of the extras/overruns and bid estimating process. A workshop to more specifically address this topic will be held immediately following the November 17<sup>th</sup> meeting.

What is an Extra? Extra work occurs when a specific item of work was not included in the original contract but was determined to be essential to the satisfactory completion of the contract. Extra work typically occurs when the project site differs from the plans or proposal, there is an inadvertent omission of work in the project plans or proposals, or there is a contract mandated pay item from the project award.

What is an Overrun? A project overrun occurs when payments for original bid items exceed 10% of the original bid cost. Original bid items do not include extra work. Overruns typically occur when a project pay item is underestimated during design, or field conditions are worse than anticipated during design.

Extras and Overruns require Commission approval when an individual extra work item is over \$250,000, when the total of extra work reaches 10% of the contract bid cost, or when project overruns reach 15% of the contract bid cost.

Extra work items originate on a contract modification that is processed by field offices, consultants, and local agencies. If the extra work exceeds the thresholds listed above, the contract modification is submitted to C&T for processing with the STC. C&T creates an extra work write-up for Commission approval.

We use a combination of tools in our estimating process. Trns-port-AAHSTO software is a national estimating program that lists pay items and is updated quarterly with the previous two years data. It's what is used for the first cut. WIRS–MDOT (Work Item Reporting System) provides up-to-date information, using several years of data, on bid prices based on geographic area, time of year and quantity. WIRS is an MDOT program that refines the estimates using state information and the factors shown.

The MDOT project manager throughout the life of the project at key milestones estimates the project costs. These estimates are broader at first using estimated prices and quantities for major items of work and adding a percentage for contingencies to account for the lack of specifics early in a project. As the project proceeds, the estimates are more refined based on more engineering detail. At project turn-in, final quantities have been determined and the project manager runs the Trns-port system to establish the estimated cost of the project. The project manager also make some adjustments to unit

prices based on project uniqueness and restrictions and submits the project plans, proposal, and estimate to the Specifications and Estimate Unit of Design. The Specifications and Estimates Unit (SEU) uses WIRS to re-evaluate the pay item unit prices for the project (it is more up to date). The system can be adjusted based on geographic area, time of year and quantity of pay item. If current data for a specific pay item is not found, the pricing parameters are adjusted to either expand the geographic area, time or quantities until a unit price can be established. Unique items with no bid history are researched or analyzed to determine an appropriate bid history. This may include an assessment of the materials in the item, estimated labor costs, contacting manufacturer, and other governmental agencies to assist in setting the pay item unit price. Items such as petroleum based products and steel are currently being monitored closely due to the recent extreme variations in bid prices.

Occasionally a project will have a lack of bidders, a bid irregularity, or the estimator was unable to accurately predict the bid pricing. In these cases, and when the low bid price is greater than \$500,000, the department is required to present the project to the Commission for approval if it desires to award the project. For those projects where the estimator was not able to accurately predict the bid prices, the department reviews the project to determine whether a project requirement or plan error may be generating the increased bid prices. The department also reviews the projects priority and construction schedule to determine if adequate time is available if a project change is to be made. Sometimes an error can be corrected or a project restriction can be changed that the department believes will lower the contractor bid prices. When appropriate, all bids are rejected, the corrections are made, and the project is re-advertised and bid again. When it is determined that no substantial errors exist and/or the project restrictions cannot be adjusted and the department does not believe that re-letting the project will result in lower bids, MDOT prepares a justification memo that is submitted to the Commission requesting recommending approval of the project award.

The Justification Memo process involves the Project Manager and the SEU jointly reviewing the project circumstances to determine the basis for the increased prices on those items in the contract that are above the engineers estimate and make up the significant difference of between the contractors bid and the final engineers estimate. Consideration is given to the construction schedule restrictions, the construction staging requirements, material hauling requirements, multiple locations, and raw material price fluctuations. A memo including the applicable explanations the department believes for the price difference is drafted by the SEU. The memo is reviewed by the Engineer of Design and Mr. Polasek. The memo is signed by Mr. Polasek and submitted to the Bureau of Finance who adds the item to the Commission Agenda. The memo is also copied to the Office of Commission Audit. Occasionally the Office of Commission Audit will have questions and the letter language is modified to clarify the intent.

The Department strives to have the most accurate estimate possible prior to advertisement and bidding of a project. The projects are estimated throughout the project life and all efforts are made to use the most current information available prior to establishing the final engineering estimates. Occasionally, we are unable to accurately predict how the contractors will bid specific items in a contract. We then attempt to provide a logical,

well thought out basis for the pricing differences and request Commission approval when we do not believe that project adjustments can be made that will lower the bid prices.

In conclusion, the Bureaus of Highway Development and Delivery understands that the Commission needs to be well informed when making decisions. Efforts are made to answer any and all questions during regular meetings. If necessary, they will also respond in a timely manor with written documentation. Responses are given to any inquiries as they arise outside of the monthly meetings.

Mr. Polasek asked for questions.

Commissioner Brosnan thanked Mr. Polasek and Mr. Friend, and commented that a fine job was done of addressing the questions from the September 29<sup>th</sup> meeting and the specific nature of them. She further commented that this is a great model process to have in advance for preparing the Commission as they enter into policy discussions in the coming months.

Chairman Wahby asked all the Commissioners to continue to contact the Commission Advisor with any questions they may have so that the Bureaus can respond in a timely manner.

No other questions or comments were forthcoming.

### III. **DIRECTOR'S REPORT – CHIEF DEPUTY DIRECTOR KIRK T. STEUDLE**

Mr. Steudle's report highlighted the topics below.

The Transportation Commission border policy was adopted in October 2004. Michigan's vision for borders is to provide for the seamless, safe and secure transport of goods, people and services in a cost-efficient and timely manner. The existing border policy does not cover the issue of governance.

Michigan's goals for borders are to assure adequate transportation capacity, protect and upgrade border facilities, study needs to improve and expand facilities, enhance collaboration, coordination and communication with stakeholder groups, collaborate with partners, increase federal funding for borders, and cooperate with agencies to improve flow of trade while maintaining national security.

The commitment to borders involves \$1 billion in new infrastructure investments from 2005-2013, greater cooperation and coordination efforts between U.S. and Canadian stakeholders, and supporting federal policies and initiatives improving flow of people and goods, while enhancing security. Infrastructure investments include the Ambassador Bridge Gateway Project (short-term), Blue Water Bridge Plaza Expansion (mid-term), and New/Expanded Detroit River International Crossing (long-term).

**Detroit River International Crossing** (presented by Mohammed Alghurabi, Senior Project Manager)

The Detroit River International Crossing (DRIC) involves 2 countries, 1 border, and 1 future crossing.

The border transportation partnership includes MDOT, USDOT FHWA, Canada, and Ontario. Objective 3.3 of the President's Security and Prosperity Partnership (SPP) states he will: Support the bi-national efforts to identify a preferred Windsor/Detroit corridor and ensure prompt completion of the environmental review process. (The SPP is a trilateral effort (Canada/U.S./Mexico) to increase security and enhance prosperity among the 3 countries through greater cooperation and information-sharing.) National security, regional, state, provincial and national economies are at stake. The challenge is to come up with a Bi-National agreement between the 2 countries.

The schedule for the study process is very complex. The normal time to complete an EIS for a road-type project is usually over 5 years. This study will produce an approved final EIS in 3 years, or by the end of 2007. Of the 36 EIS's completed (nationally) in 2003, only 14 were completed in less than 4 years. The average was 6 years for NOI to ROD. The number of alternatives for the DRIC will decrease as the study progresses, while the amount of analysis will increase. In the first step, all alternatives are screened to determine if they meet the project's purpose and address its needs. Those that do not are dropped. The next step is to define preliminary/illustrative alternatives for fatal flaws (e.g. a tunnel cannot be built in the rock or a bridge cannot be built in the airspace of the nearby airports). Those with fatal flaws are dropped. The remaining illustrative/preliminary alternatives are then subject to a review of their performance in a number of categories: Regional Mobility, Air Quality, Community Issues, Consistency with Local Planning, Cultural Resources effects, Natural Environment effects, and Constructability. Cost effectiveness was also considered. Those illustrative/preliminary alternatives that perform at the highest level and address the regional, national and international importance of the crossing's role are considered practical alternatives and subject to full EIS study in over two dozen social/economic/environmental/engineering areas. The preferred alternative is the one that emerges from the detailed EIS/EPE process, including full public input and public policy considerations.

Additional public involvement opportunities include a Local Advisory Council (LAC) (community group representatives and elected officials—meets monthly), a Local Agency Group (LAG) (technical staff of local governmental units—meets monthly), and a Private Sector Advisory Group (bi-national private sector businesses such as shippers, bridge operators, proponents of a new crossing, auto industry, and businesses located near existing crossing—meets quarterly).

There are 5 elements to the new or expanded international crossing: 1 international crossing (bridge or tunnel) which will accommodate six lanes over/under the Detroit River, 2 inspection plazas (sites that are 80-100 acres (30 to 40 hectares) in size and are close to the border are being sought), and 2 highway connections (six lane freeway/controlled access facilities are being planned).

**Governance of the New/Expanded Detroit River International Crossing** (presented by Susan Mortel, Director of Bureau of Planning)

Governance is not just the ownership of the river crossing, but also the responsibility for the design, construction, operations, administration, maintenance, and financing. Since the last Windsor-Detroit crossing was built 75 years ago, design and construction techniques have advanced, so too has governance. Innovations in the governance of public infrastructure projects grew out of changing ideas about the roles of government, financing and oversight. Operating a new/expanded Detroit River crossing should reflect changes in governance and simultaneously address trade and security—two issues of national importance to Canada and the United States. Public-private partnerships are embedded in the topic of governance. It is the responsibility of Government to determine the appropriate level of public oversight.

The Bi-National Governance working group is a subcommittee of the Bi-National Partnership, which parallels the EIS process. It serves as a valuable mechanism to identify common ground among partners, and will address important financial, operational and technical considerations to define the nature of new crossing.

When looking at how the governance decision fits into the project schedule, you have to look further towards the 2013 goal of opening the new crossing. Somewhere along the way, decisions by governments will enter the process—some of them very early in terms of making sure we are going in the right direction.

Examples of governance at other existing crossings are: Ambassador Bridge—privately owned and operated; Detroit-Windsor Tunnel—public owned, private operated; Blue Water Bridge—publicly owned and operated; International Bridge—publicly owned and operated; Peace Bridge (Buffalo-Fort Erie Public Bridge Authority (PBA))—publicly owned and operated. The governance of the bridge is through an international commission composed of equal representation between Canada and New York with the chair alternating between Canada and New York membership. The PBA owns its own assets. However, when its outstanding bonds are paid-off the assets revert to the Government of Canada and New York State; Confederation Bridge—publicly owned by government of Canada, privately operated by Strait Crossing Development Inc., who won a competitive bid to finance, design, build and operate the bridge for 35 years. At the end of the lease term the bridge is transferred back to the Government of Canada. Key issue with this model is whether government or the service provider retains ownership of the completed facility. In this case, the Government of Canada owns the land and the bridge. The private sector recovers its costs by collecting user charges.

There is a range of governance structures that offer potential models for a new/expanded Detroit River crossing: Public Ownership and Operations, Private Ownership and Operations, Public-Private Partnership, Not-For-Profit Corporation, Joint Authority, and combinations of the above.

How will the decision be made? No one involved in this process has any experience in this area. The best answer right now is that governments will make the decision: The U.S.-State (STC, Governor and Legislature), Federal (FHWA and Department of State,

Canadian-Province (Minister and Ontario Cabinet), and Federal (Minister and Cabinet).

Our goal is to have a governance decision in winter 2006 as to which direction to go in. This allows for sufficient preparation for the Governor to work with her counterparts in Canada and the Legislature. We need guidance within the coming months to make the decision. We will then move into implementation of the decision for the coming years.

From the Commission help is needed to establish parameters and formulate policy relative to appropriate public oversight, and the acceptable elements of a public-private partnership. Examples of issues to consider: What type of public oversight is appropriate to protect the public interest?; Is a public-private partnership appropriate? If yes, how do governance and elements of a public-private partnership mesh?

The next steps include a Governance workshop, possibly in November 2005, and the adoption of a governance policy in winter 2006.

Ms. Mortel asked for questions.

Chairman Wahby asked who did the planning on the crossing in Port Huron. It was supposed to eliminate the traffic jam, now we find that the plazas are in the wrong spot. Congressman Miller brought in \$43 million to correct that problem, but it's not enough.

Ms. Mortel answered that we plan on learning from the past and those decisions that were made. We have been working closely with Customs and Border Protection to try and estimate the needs.

No other questions were forthcoming.

#### IV. **OVERSIGHT**

##### Commission/State Administrative Board Contracts/Agreements (Exhibit A) – Myron Frierson

Mr. Frierson announced that Item 6, Contract #2005-5403 (reconstruction and widening work from two lanes to five lanes along Gratiot Avenue from 24 Mile Road to 26 Mile Road) is withdrawn.

Pending any questions, Mr. Frierson asked for approval of the remaining items in Exhibit A.

No questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Rosendall to approve Exhibit A. Motion carried on a unanimous voice vote.

Bid Letting Pre-Approvals (Exhibit A-1) – Myron Frierson

Mr. Frierson gave a brief re-cap of the October bid letting activities. There were 53 state projects (25 had warranties) with an engineers' estimate of \$47.7 million. Low bid for those projects were about \$48 million, averaging about \$900,000. One item was postponed to the November 4<sup>th</sup> letting. Earlier this week the department decided to reject a bid from one item (Cheboygan County) that was due to be awarded. It will be modified and re-advertised at a later letting. There are 9 items waiting for Commission approval.

The November letting totaled about \$54 million (35 state projects; 18 with warranties).

Pending any questions, Mr. Frierson asked for approval of the bid items for the November letting in Exhibit A-1.

No questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to approve the November bid letting. Motion carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – John Polasek

Mr. Polasek presented 12 items; 3 with Justification (#17, 20, and 49) are carryovers from September 2005, 8 state and 1 local project.

Pending any questions, Mr. Polasek asked for approval of Exhibit A-2.

Commissioner Brennan asked, regarding Item 0510016 (bridge removal and replacement...over the Flint River, Saginaw County), what "cofferdams" were.

Mr. Polasek answered that a cofferdam is used around piers and abutments on bridges during construction. Interlocking sheet pilings (strips of steel sheeting) are driven in the ground around the work area when the work is along or in a river, stream or lake as well as where existing soils need retaining. De-watering can then occur and safe work area can be established and maintained.

No other questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Information Items (Exhibit A-3) – Myron Frierson

Mr. Frierson reported that this exhibit item is for information only. This item had a single bidder with the actual bid being below the engineers' estimate. There is no action required.

Chairman Wahby asked for questions; none were forthcoming.



Contract Adjustments (Exhibit B) – John Friend

Mr. Friend presented 5 MDOT extras, 1 overrun, and 2 local extras.

Pending any questions, Mr. Friend asked for approval of Exhibit B.

Commissioner Atkinson asked regarding projects previously before the Commission, should the column of overruns approved-to-date and the column of extras and adjustments approved-to-date, when taken together with the current request amount, equal the difference between the cost-to-date and the original price.

Mr. Friend deferred to Jason Gutting, Construction Contract Engineer at C&T, for an answer.

Mr. Gutting answered that it should in most cases, but there are circumstances where they will not total because a contract modification may contain items that do not require STC approval, and those monetary costs are in limbo until the primary work item is approved by the STC.

Commissioner Atkinson further asked if it were fair to say it accounts for the difference in 2005-122.

Mr. Gutting stated that it could, but he would have to look into it and get an answer back to the Commission.

Commissioner Atkinson stated she would like an answer.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Atkinson to approve Exhibit B. Motion carried on a voice vote.

V. **APPOINTMENTS**

Asset Management Council Re-Appointment – Frank E. Kelley

Mr. Kelley asked the Commission to approve the re-appointment of Mr. William McEntee (1/1/06 to 12/31/08) to the Asset Management Council.

Chairman Wahby entertained a motion for approval. Motion was made by Commissioner Brennan and supported by Commissioner Atkinson to approve the re-appointment of William McEntee. The motion carried on a unanimous voice vote.

VI. **PRESENTATIONS**

2006 State Transportation Meeting Schedule – Frank E. Kelley

Mr. Kelley stated that these dates have been set for next year (2006), and if no objections, asked for approval. He noted that the August 2006 date is set for the 3<sup>rd</sup> Thursday in consideration of the Labor Day weekend. Mr. Kelley also noted that 2 of the meetings for next year will be held outside of Lansing. The specific location and date are yet to be determined.

Chairman Wahby entertained a motion for approval of the 2006 Meeting Schedule. It was moved by Commissioner Brosnan, with support from Commissioner Brennan to approve the 2006 schedule as submitted. The motion carried on a unanimous voice vote.

Fiscal Year 2004-2005 Letting Statistics – Myron Frierson

Mr. Frierson gave a brief PowerPoint presentation on the MDOT construction contracting activities during fiscal year 2004-2005.

**Bid Lettings:**

During FY 2005, MDOT took bids on a total of 832 projects, 491 of which were for work on state trunklines. The remainder of the projects was a combination of local projects (295), aeronautics projects (45), and one Multi-Modal (UPTRAN) project. The total dollar amount of state trunkline low bids was \$894.6 million compared to \$739.6 million for fiscal year 2004, a 20.9% increase. State trunkline projects represented 59.0% of the number of projects let and 76.4% of the low bid dollars. The low bids of other projects let totaled \$276.3 million. There were sixteen lettings held with 289 different bidders submitting a total of 3,754 bids.

**Bid Rejections:**

Of the 832 projects let, all bids were rejected on 21 projects, ten of which were State items. In addition, the low bids were rejected on five projects, and four of these were appealed to the Department. Of the four appeals, three were upheld and one was reversed and accepted.

**Design of State Projects:**

In the past more of the program (based on dollar value) was designed by a consultant (54.9% in FY 2003, 59.1% in FY 2004), but in FY 2005, given the change in types of projects (51.0%) that were let, there was more emphasis on smaller preservation projects. These were typically the types of jobs that the department designs.

**Pre-qualified Contractors:**

As of the end of the fiscal year, there were 667 pre-qualified construction contractors. Of these, 188 contractors worked on projects as prime contractors during the year. Ten of the contractors were low bidders on 50.01% of the work awarded.

Commissioner Brennan asked what factors are looked at to determine the workload that a contractor can take on.

Mr. Frierson answered that they use a formula that looks at, amongst other things, current assets, equipment value, and working capital. This calculates a number. In order to get a rating above \$1 million, you have to have audited financial statements (reviewed by an outside source) which supports that the numbers on the balance sheets are accurate representations of what the contractors' financial status is.

Commissioner Brennan then asked if the "rating above \$1 million" means that the contractor can bid on jobs \$1 million or greater.

Mr. Frierson answered yes.

Commissioner Brennan also asked, in looking at the audited financial statements, if they were looking for \$1 million in assets.

Mr. Frierson answered that an independent source looks at the audited financial statements to verify that the numbers on the balance sheets are an accurate representation of what the contractors' financial status is.

Commissioner Brennan asked if this was an annual review of all the contractors.

Mr. Frierson answered yes.

No other questions were forthcoming.

**Projects by Region—Total Dollars:**

The bulk of our work was in the Metro Region (\$355.10 million—31%); University Region (\$199.99 million—17%); Grand Region (\$165.07 million—14%); Bay Region (\$144.68 million—12%); Superior Region (\$117.48 million—10%); Southwest Region (\$104.93 million—9%); and North Region (\$83.54 million—7%).

**Projects by Region—Number of Projects:**

University (147—17%); Metro (146—18%); North (123—14%); Grand (111—13%); Bay (110—13%); Superior (107—13%); Southwest (106—12%).

**Contractor Payments:**

During the year, 11,837 estimates resulting in 19,151 payment vouchers were paid to contractors for a total of \$1,212.2 million.

**Process Improvements:**

As of October 1, 2005, electronic bidding through Bid Express became mandatory, and paper bids were no longer accepted.

MDOT provided ten additional training sessions for contractors in Bid Express. Two more sessions are scheduled for November 2005.

MDOT secured approval from FHWA to eliminate the reading of all bids in public. Bids are now downloaded to MDOT's website immediately after the bid letting deadline.

Electronic plans and proposals are being piloted with full implementation scheduled for September 2006.

MDOT continues to pilot major improvements to the construction subcontracting process, with full implementation scheduled for June 2006.

Mr. Frierson asked for questions; none were forthcoming. There is no action required.

VII. **PUBLIC COMMENTS**

Chairman Wahby asked if anyone wanted to address the Commission.

No other public comments were forthcoming.

Chairman Wahby asked if any member of the Commission had comments.

VIII. **ADJOURNMENT**

There being no further business to come before the Commission, the Chairman declared the meeting adjourned at 10:00 a.m. Following a short break there will be a Workshop on Warranties.

The next full meeting of the Michigan State Transportation Commission will be held in Lansing, Michigan, on November 17, 2005, commencing at the hour of 9:00 a.m.

Immediately following that meeting there will be a Workshop on Extras/OVERRUNS and the Bid Estimating Process.

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Frank E. Kelley  
Commission Advisor